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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/009,590
Applicant : Zin Xian CHEN et al.
Filed : 3 April 2002
TC/A.U. : 1638
Examiner : Anne R. KUBELIK

Confirmation No.: 1775

Docket No. : 2577-124
Customer No. : 06449

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

SUBMISSION OF EXECUTED RULE 131 DECLARATION

Dear Sir:

Further to the Amendment filed on 20 November 2006, Applicants submit an executed Declaration under 37 CFR 1.131(a). Applicants note that this Declaration is identical to the unexecuted copy submitted with the Amendment except that it is only signed by one inventor, namely Dr. Zhang. The assignee of this case was unsuccessful in contacting the second inventor, Dr. Chen. In view of the inability to contact Dr. Chen, only Dr. Zhang has signed the Declaration.

Favorable consideration of this application is requested in light of the previously filed Amendment and the instant Rule 131 declaration. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,
ROTHWELL, FIGG, ERNST & MANBECK, p.c.

By

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Director of the United States Patent
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Alexandria, Virginia 22313-1450

DECLARATION UNDER 37 CFR 1.131(a)

Dear Sir:

I, Lian Hui ZHANG, applicant for the above-identified patent application, declare as follows:

1. I am an inventor of the invention disclosed and claimed in the above-identified application.
2. On a date prior to 18 December 1998 and subsequent to 1 January 1996, we conceived and reduced to practice the subject invention in Singapore, a WTO country.
3. Attached hereto as Exhibit A are photocopies of relevant pages from a laboratory notebook of Zhi Xian Chen. The photocopies are true and exact copies of the original notebook pages with the exception that all dates have been redacted so as to maintain the confidentiality of the actual date of invention. The entries in the original notebook pages were made, signed and dated by Zhi Xian Chen contemporaneously with the experimental work described therein. Each of the entries in the original notebook pages of Exhibit A was made prior to 18 December 1998.
4. The laboratory notebook pages show recorded work to complete the invention, including (a) obtaining cotton petiole explants, (b) exposing the petiole explants to a culture of *Agrobacterium tumefaciens* that harbors a vector comprising an exogenous gene and a selectable marker, (c) culturing the petiole explants in medium containing one or more plant hormones to

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Declaration Under 37 CFR 1.131(a)

induce callus formation, (d) selecting a transformed callus that expresses the exogenous gene, (e) culturing the selected callus in suspension culture to induce formation of embryogenic callus, (f) culturing the embryogenic callus to produce embryoids, and (g) germinating an embryoid to obtain a transgenic cotton plant. The laboratory notebook pages further show germinating an embryoid to produce a young transgenic cotton plant and growing the young transgenic cotton plant.

5. In my opinion, all steps necessary to render the subject invention complete were made in Singapore prior to or by the date on which the last of the original laboratory notebook pages of Exhibit A were dated.

6. It is further declared that the accompanying Exhibit A may not be a complete record of Applicants' data concerning the invention of the instant patent application and are not necessarily meant to represent the earliest date of conception. The accompanying exhibits are presented solely to prove a completion of the invention prior to the earliest effective date (18 December 1998) of the Armstrong et al. (US 2004/0087030) prior art cited by the Examiner in the Office Action mailed 19 May 2006.

The declarant further state that the above statements were made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that any such willful false statement may jeopardize the validity of this application or any patent resulting therefrom.

Dated: 29-11-2006



Lian Hui ZHANG